

BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**MONICA ANN BRUNKE**  
218 Stonegate Dr  
Vacaville, CA 95687

Registered Nurse License No. **762932**

Respondent.

CASE No. 2012-155


OAH No. 2011100411

**NOTICE OF DECISION AND ORDER**

No action having been taken on the attached Proposed Decision, pursuant to Government Code section 11517(c)(2) the attached decision is hereby deemed adopted by operation of law on December 5, 2012.

Pursuant to Government Code section 11519, this Decision shall become effective on January 4, 2013.

Date: December 5, 2012.

  
Louise R. Bailey, M.Ed., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MONICA ANN BRUNKE  
Vacaville, California 95687

Registered Nurse License No. 762932

Respondent.

Case. No. 2012-155

OAH No. 2011100411

**PROPOSED DECISION**

This matter was heard before Rebecca M. Westmore, Administrative Law Judge, Office of Administrative Hearings, State of California, on May 29, 2012, in Sacramento, California.

Kent D. Harris, Deputy Attorney General, represented complainant, Louise R. Bailey, M.Ed., RN, Executive Officer of the Board of Registered Nursing (board), Department of Consumer Affairs (department).

Monica Ann Brunke (respondent) appeared and represented herself.

Evidence was received, the record was closed, and the matter was submitted for decision on May 29, 2012.

**FACTUAL FINDINGS**

1. On November 12, 2009, the board issued Registered Nurse License Number 762932 to respondent. The license will expire on January 31, 2013, unless renewed.
2. On September 9, 2011, complainant made and filed the Accusation in her official capacity. Complainant seeks to discipline respondent's license based upon her criminal conviction involving alcohol.

3. Respondent timely filed a Notice of Defense to the Accusation pursuant to Government Code section 11506. The matter was set for an evidentiary hearing before an Administrative Law Judge of the Office of Administrative Hearings, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500, et seq.

*Respondent's Conviction*

4. On August 5, 2010, in the Municipal Court of the City of Reno, County of Washoe, State of Nevada, Case Number 10 CR 16344 21, respondent, upon a plea of guilty, was convicted of violating Reno Municipal Code section 06.06.335A1, driving under the influence of alcohol. Respondent's blood alcohol content (BAC) was .221 percent. The court sentenced respondent to serve 48 hours of community service through the Washoe County Sheriff's Community Work Program; complete a 26-week Level IIX DUI School program; attend and complete a Victim Impact Panel; receive a substance abuse evaluation from a state certified substance abuse evaluation center; and pay \$585 in fines and fees. Respondent paid her fines and fees in full on August 5, 2010, and completed her Level IIX DUI Counseling Program through Charter Recovery on January 4, 2011.

5. Respondent's conviction arose from her conduct on June 16, 2010 at 0210 hours, after being out drinking with friends. At hearing, respondent acknowledged that she "made a poor decision to drive home." She was stopped by Reno police officers when she failed to stop at a stop sign. In his report, the officer noted that he observed respondent driving approximately 50 miles per hour in a 35 mile per hour zone, and failing to slow or stop at a stop sign. According to the officer, when he pulled respondent over, respondent immediately stated "I'm drunk."

*Matters in Aggravation, Mitigation and Rehabilitation*

6. Respondent is 33 years old. At hearing, she admitted that her decision to drive "was very irresponsible." Since that day, she has replayed the event in her mind, and wishes she could have made a different decision. Respondent attended Alcoholics Anonymous (AA), and learned from the stories and experiences of the attendees "what it took to come back from that." She described her experience at AA as an "eye opener as to how much alcohol can destroy your life." Respondent abstained from drinking for six months during her Level IIX DUI School Program, but continues to drink approximately two drinks a month when she is out to dinner with friends. She does not consider herself to be an alcoholic.

7. Respondent has been employed as a registered nurse in the Primary Care Unit at John Muir Medical Center in Walnut Creek since September 6, 2011. She works the night shift from 7:00 p.m. to 7:00 a.m. three days a week. She is also employed as a registered nurse at Solano Plastic Surgery in Vacaville, California. Every Thursday she prepares the nurses for surgery, starts the antibiotics, and serves

as a circulating nurse in the operating room. She also recovers and discharges the patients. Respondent is a certified National Institutes of Health (NIH) stroke nurse and is certified in Advanced Cardiac Life Support (ACLS). According to respondent, she is in good standing with both of her employers. Prior to these positions, respondent served as a charge nurse at Renown Medical Center in Reno, Nevada. Respondent realizes that she has to represent herself professionally, and is moving forward with her life.

8. On July 16, 2010, respondent underwent a substance abuse evaluation with Lynne J. Daus, M.A., L.A.D.C., in Reno, Nevada. In her report, Ms. Daus recounted respondent's substance abuse history in which respondent admitted drinking at the age of 17. Respondent reported drinking beer twice a year in high school; vodka cocktails and beer once a month in college; and by the age of 25 years, had increased her consumption to double or triple vodka cocktails. Under DSM-IV, Ms. Daus diagnosed respondent with alcohol abuse, and determined that she had a "maladaptive pattern of substance use." It is unclear from Ms. Daus's report which of her diagnosis of "one or more of the" recurrent behaviors applied to respondent, or whether the recurrent behaviors listed were the potential behaviors for that classification of substance use. Without further qualification, and with the exception of the "recurrent substance use in situations in which it is physically hazardous (i.e. driving an automobile or operating a machine when impaired by substance use)," which was specifically qualified by Ms. Daus, it cannot be stated that the remaining three recurrent behaviors were applicable to respondent. Ms. Daus recommended that respondent attend an outpatient counseling program; eight hours of DUI School and counseling once a week; and two AA meetings a week for a minimum of six months. Respondent underwent 21 counseling sessions, and completed the treatment program on December 7, 2010. At hearing, respondent denied that she had recurrent problems with alcohol at home, school or work, recurrent legal problems related to substance abuse, recurrent social or interpersonal problems, or that her family had commented on her drinking. Respondent contends that she abused alcohol on the night of June 16, 2010; has suffered financially as a result of her conviction; and that her family was concerned about her on this occasion; however, this was her only alcohol-related problem.

#### *Prosecution Costs*

9. Business and Professions Code section 125.3 authorizes the board to request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. In support of its request for prosecution costs, the board filed a Certification of Prosecution Costs and Declaration of Attorney General, supported by the Department of Justice's "Matter Time Activity by Professional Type" printout for this case. As of May 22, 2012, the Attorney General has expended 4.75 hours at the rate of \$170 per hour and 3.50 hours at the rate of \$120 per hour, for a total of \$1,397.50.

10. Pursuant to *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, various factors must be considered in determining the amount of costs to be assessed. The board must not assess the full costs of investigation and prosecution when to do so will unfairly penalize a licensee who has committed some misconduct, but who has used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed. The Board must consider the licensee's subjective good faith belief in the merits of his or her position, as well as whether the licensee has raised a colorable challenge to the proposed discipline. The board must determine that the licensee will be financially able to make later payments. Finally, the board may not assess the full costs of investigation and prosecution when it has conducted a disproportionately large investigation to prove that a licensee engaged in relatively innocuous misconduct. Considering these factors in light of the record as a whole, the board's costs are reasonable.

11. No evidence was submitted by respondent regarding her ability to pay these prosecution costs.

#### LEGAL CONCLUSIONS

1. In an Accusation seeking to revoke, suspend, or otherwise discipline respondent's professional license, the board has the burden of proof to establish the allegations in the Accusation by "clear and convincing evidence." (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal. App. 3d 853, 856.)

2. Pursuant to Business and Professions Code section 2761, the board may take disciplinary action against a licensed nurse on any of the following grounds, including:

(a) Unprofessional conduct, . . . ,

[¶] ... [¶]

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

3. Pursuant to Business and Professions Code section 2762, the board has defined "unprofessional conduct," in pertinent part, as:

[¶] ... [¶]

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety

Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

[¶] ... [¶]

4. Pursuant to California Code of Regulations, title 16, section 1442, et seq., the board has adopted regulations providing that an act or conviction "shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare." (Cal. Code Regs., tit. 16, § 1444.) The regulation provides a non-exhaustive list of specific examples of substantially related convictions or acts. The abuse of alcohol to an extent that results in a BAC of .221 percent, and a conviction, evidences both the real and potential unfitness of a nurse to safely practice the profession. Consequently, respondent's conviction is substantially related to the qualifications, functions or duties of a registered nurse.

#### *Cause for Discipline*

5. As set forth in Factual Finding 4 and Legal Conclusion 4, respondent has been convicted of a crime that is substantially related to the qualifications, functions or duties of a registered nurse. Therefore, cause exists to discipline respondent's license pursuant to Business and Professions Code section 2761, subdivision (f), in conjunction with California Code of Regulations, title 16, section 1442.

6. As set forth in Factual Finding 4, respondent has been convicted of a crime involving the use of alcohol, which constitutes unprofessional conduct. Therefore, cause exists to discipline respondent's license pursuant to Business and Professions Code sections 2761, subdivision (a), and 2762, subdivisions (b) and (c).

7. As set forth in Factual Findings 4 and 5, respondent has used alcohol to an extent or in a manner dangerous or injurious to herself, any other person, or the

public, which constitutes unprofessional conduct. Therefore, cause exists to discipline respondent's license pursuant to Business and Professions Code sections 2761, subdivision (a), and 2762, subdivisions (b) and (c).

*Fitness for Continued Licensure*

8. The board has set forth its criteria for rehabilitation in California Code of Regulations, title 16, section 1445. Respondent's alcohol-related conduct leading to her conviction is troubling, especially in light of her history of drinking dating back to high school. While she continues to drink occasionally, no evidence was presented to show that respondent has engaged in criminal conduct involving alcohol since August 2010. She has successfully completed the terms and conditions imposed by the court. At hearing, respondent was honest and candid, expressed remorse for her conduct, and expressed a willingness to abide by requirements that the board may impose. She is gainfully employed in two registered nurse positions. When all the facts and circumstances are considered, it would not be against the public interest, safety and welfare to allow her to retain her registered nurse license, subject to terms and conditions designed to monitor her practice and protect the public.

*Costs*

9. Pursuant to Business and Professions Code section 125.3, and as set forth in Factual Findings 9 through 11, complainant is entitled to be paid the reasonable costs incurred for the prosecution of this case, in the total amount of \$1,397.50. Respondent shall pay such costs pursuant to a reasonable payment plan as discussed below.

**ORDER**

IT IS HEREBY ORDERED that Registered Nurse License Number 762932 issued to respondent Monica Ann Brunke is hereby revoked. However, the revocation is stayed and respondent is placed on three (3) years probation, subject to the following terms and conditions:

**SEVERABILITY CLAUSE** – Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

(1) **OBEY ALL LAWS** - Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board in writing within seventy-two (72)

hours of occurrence. To permit monitoring of compliance with this condition, respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

**CRIMINAL COURT ORDERS:** If respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

**(2) COMPLY WITH THE BOARD'S PROBATION PROGRAM -**

Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, respondent's license shall be fully restored.

**(3) REPORT IN PERSON -** Respondent, during the period of probation, shall appear in person at interviews/ meetings as directed by the Board or its designated representatives.

**(4) RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE -**

Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period.

Respondent's probation is tolled, if and when she resides outside of California. The respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state; and within 30 days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states and territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing license during the term of probation.

**(5) SUBMIT WRITTEN REPORTS -** Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to respondent's



compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

(6) FUNCTION AS A REGISTERED NURSE - Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse. The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If respondent has not complied with this condition during the probationary term, and the respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

(7) EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS - Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this decision to her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, respondent shall notify the Board in writing within seventy-two (72) hours after she obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within seventy-two (72) hours after she is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

(8) SUPERVISION - Respondent shall obtain prior approval from the Board regarding respondent's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

- (a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
- (b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours respondent works.
- (c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with respondent at least twice during each shift worked.
- (d) Home Health Care - If respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by the respondent with or without respondent present.

(9) EMPLOYMENT LIMITATIONS - Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

(10) COMPLETE A NURSING COURSE(S) - Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to respondent after photocopying them for its records.

(11) COST RECOVERY - Respondent shall pay to the Board costs associated with its prosecution pursuant to Business and Professions Code Section 125.3 in the amount of \$1,397.50. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If respondent has not complied with this condition during the probationary term, and respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

(12) VIOLATION OF PROBATION - If a respondent violates the conditions of her probation, the Board after giving the respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation) of the respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

(13) LICENSE SURRENDER - During respondent's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, respondent may surrender her license to the Board. The Board reserves the right to evaluate respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, respondent will no longer be subject to the conditions of probation.

Surrender of respondent's license shall be considered a disciplinary action and shall become a part of respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- 1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
- 2) One year for a license surrendered for a mental or physical illness.

(14) ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS - Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of respondent's history of substance abuse and will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly

basis respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

(15) SUBMIT TO TESTS AND SAMPLES - Respondent, at her expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. The respondent is responsible for keeping the Board informed of respondent's current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and the respondent shall be considered in violation of probation.

In addition, respondent, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

If respondent fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, the respondent shall immediately cease practice and shall not resume practice until notified by the Board. After taking into account documented evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

(16) THERAPY OR COUNSELING PROGRAM - Respondent, at her expense, shall participate in an on-going counseling program until such time as the Board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

DATED: June 5, 2012

A handwritten signature in cursive script, appearing to read 'Rebecca M. Westmore', written over a horizontal line.

REBECCA M. WESTMORE  
Administrative Law Judge  
Office of Administrative Hearings

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 KENT D. HARRIS  
Deputy Attorney General  
4 State Bar No. 144804  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-7859  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2012-155**

12 **MONICA ANN BRUNKE**  
218 Stonegate Drive  
13 Vacaville, CA 95687  
14 **Registered Nurse License No. 762932**

**A C C U S A T I O N**

Respondent.

15  
16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
19 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),  
20 Department of Consumer Affairs.

21 **Registered Nurse License**

22 2. On or about November 12, 2009, the Board issued Registered Nurse License Number  
23 762932 to Monica Ann Brunke ("Respondent"). The registered nurse license was in full force  
24 and effect at all times relevant to the charges brought herein and will expire on January 31, 2013,  
25 unless renewed.

26 **STATUTORY PROVISIONS**

27 3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent  
28 part, that the Board may discipline any licensee, including a licensee holding a temporary or an

1 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the  
2 Nursing Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not  
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or  
5 to render a decision imposing discipline on the license. Under Code section 2811, subdivision  
6 (b), the Board may renew an expired license at any time within eight years after the expiration.

7 5. Code section 2761 states, in pertinent part:

8 The board may take disciplinary action against a certified or licensed  
9 nurse or deny an application for a certificate or license for any of the following:

10 (a) Unprofessional conduct...,

11 (f) Conviction of a felony or of any offense substantially related to the  
12 qualifications, functions, and duties of a registered nurse, in which event the record of  
the conviction shall be conclusive evidence thereof.

13 6. Code section 2762 states, in pertinent part:

14 In addition to other acts constituting unprofessional conduct within the  
15 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a  
person licensed under this chapter to do any of the following:

16 (b) Use any controlled substance as defined in Division 10 (commencing  
17 with Section 11000) of the Health and Safety Code, or any dangerous drug or  
18 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or  
19 in a manner dangerous or injurious to himself or herself, any other person, or the  
public or to the extent that such use impairs his or her ability to conduct with safety to  
the public the practice authorized by his or her license.

20 (c) Be convicted of a criminal offense involving the prescription,  
21 consumption, or self-administration of any of the substances described in  
22 subdivisions (a) and (b) of this section, or the possession of, or falsification of a  
record pertaining to, the substances described in subdivision (a) of this section, in  
which event the record of the conviction is conclusive evidence thereof.

### 23 COST RECOVERY

24 7. Code section 125.3 provides, in pertinent part, that the Board may request the  
25 administrative law judge to direct a licentiate found to have committed a violation or violations of  
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
27 enforcement of the case.



1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Criminal Conviction)**

3 8. Respondent has subjected her license to discipline pursuant to Code section 2761,  
4 subdivision (f) in that Respondent has been convicted of the following crime that is substantially  
5 related to the qualifications, functions, and duties of a registered nurse:

6 a. On or about August 5, 2010, in the Municipal Court of the City of Reno, County of  
7 Washoe, State of Nevada, in the matter entitled *City of Reno vs. Brunke, Monica Ann*, 2010, Case  
8 No. 10 CR 16344 21, Respondent was convicted following her plea of guilty to a violation of  
9 Reno Municipal Code sections 06.06.335A1 (driving under the influence of alcohol-1st) and  
10 06.06.330 (careless driving), both misdemeanors. The circumstances of the crime are that on or  
11 about June 16, 2010, Respondent was arrested for driving under the influence of alcohol,  
12 following a traffic stop. Respondent was stopped by a Reno police officer after she was observed  
13 to be speeding and driving through a stop sign without stopping. Respondent's blood alcohol  
14 measured .23%.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Conviction of a Crime Involving Alcohol)**

17 9. Respondent has subjected her license to discipline pursuant to Code section 2761,  
18 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,  
19 subdivision (c), in that Respondent has been convicted of a crime involving the consumption of  
20 alcohol, as more particularly set forth in paragraph 8, above.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Use Alcohol to an Extent or in a Manner Dangerous or Injurious)**

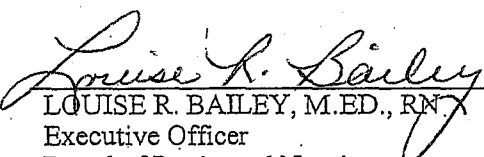
23 10. Respondent has subjected her license to discipline pursuant to Code section 2761,  
24 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,  
25 subdivision (b), in that on or about June 16, 2010, Respondent used alcohol to an extent or in a  
26 manner dangerous or injurious to herself or others, as more particularly set forth in paragraphs 8  
27 and 9, above.  
28

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 762932, issued to Monica Ann Brunke;
2. Ordering Monica Ann Brunke to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: September 9, 2011

  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

SA2011101233  
10740474.doc